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EXAMINER	
VAN DOREN, BETH	
ART UNIT	**PAPER NUMBER**
3623	

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/733,873	YANG, PING	
	Examiner	Art Unit	
	Beth Van Doren	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 3/21/05.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-8,11,30-39,42 and 62-75 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-8,11,30-39,42 and 62-75 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a non-final office action in response to communications received 03/21/05. Claims 71-75 have been added. Claims 1-8, 11, 30-39, 42, and 62-75 are pending in this application.

Response to Arguments

2. Applicant's arguments with respect to the 35 USC § 101 rejections have been fully considered and are persuasive. Therefore the 35 USC § 101 rejections have been withdrawn.

3. Applicant's arguments with respect to the rejections based on Lyons et al. (U.S. 2002/0077937) have been fully considered, but they are not persuasive. In the remarks, Applicant argues that (1) in Lyons et al. a pickup location is a store or outlet (fixed structure) and there is no suggestion that a pickup point may be mobile, (2) Lyons et al. does not teach or suggest how to define the beginning and end of a travel route, how to select a pickup location based on the user travel route, or communicating the travel route to a server, (3) Lyons et al. does not teach or suggest an overlapping function wherein one or more overlaps of all user travel routes are used to identify an overlap section, (4) Lyons et al. does not teach or suggest a channeling function by which a channel is defined.

Before responding to these arguments, Examiner notes the following:

i. Examiner has changed her rejection of claim 8 from a 35 USC § 102 rejection to a 35 USC § 103 rejection. The arguments presented by the Applicant state that the lockers of claim 8 are to be located on and included within the mobile pickup station. The rejection has been changed to address this specificity.

ii. Examiner points out that on page 14, bottom paragraph, of the remarks Applicant states that "the invention is achieved by the following steps" and then lists steps 1)-4). Examiner points out these steps contain many features that are not recited in currently pending claims, specifically the independent claims. For example, the steps of the remarks include that route information includes beginning and end information, that a mobile pickup station is a portable locker, etc. Examiner points out that none of the independent claims recite that route information includes beginning and end information. In fact, dependent claims 62-70 recite that route information includes a "first reference point and a channel width", with the first reference point includes an address, a zip code, etc. Further, Examiner points out that claim 8 (a dependent claim on claim 1) is the only claim containing any recitation of a locker. Therefore, Examiner requests that if these and other argued features that are not claimed are pertinent to the invention, that they be recited in the claims to receive appropriate patentable weight.

In response to argument (1), Examiner respectfully disagrees. The claims state that a pickup point is chosen and a mobile station is dispatched to the pickup point containing a product ordered by the buyer. Therefore, the pickup point, based on the broadest reasonable interpretation of the claim, is a stationary point at which the buyer would pickup a product. A mobile station, based on the broadest reasonable interpretation of the claim, is a mobile entity that carries the ordered item to the point at which the buyer will pick up the item. Lyons et al. teaches that a mobile entity contains the ordered product and travels to the selected pickup location, at which the buyer picks up the item from the locker at the pickup location. See paragraphs 0007-8 and 0054-5.

In response to argument (2), Examiner respectfully disagrees. As discussed above, the features upon which applicant relies (i.e., beginning and end travel route information) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner further points out that communicating the travel route to the server is only recited in new claims 72-74 and that **how** the pickup points are selected are only recited in dependent claims (i.e. not in the independent claims). Lyons et al. teaches that the system receives a reference point and a range of locations for pickup from the buyer that are convenient to the buyer. Examiner notes that the claim does not clearly recite if the route information is that of the buyer or the mobile station. Either way, a reference point and selected pickup locations that are desirable and convenient to the buyer are route information in that this information will define the travel of both the mobile unit and the buyer and will schedule the order of events for pickup. See at least paragraphs 0007-8, 0010, 0023-4, 0030, 0032, and 0054-6. Further, the buyer of the system of Lyons interacts with a website over the internet of the seller/distributor and therefore enters the route information using this connection, therefore communicating with a server. See paragraphs 0017-9 and 0023.

In response to argument (3) that the references fail to show certain features of applicant's invention, it is noted that the feature upon which applicant relies (i.e., an overlapping function wherein overlaps of travel routes are used to identify an overlap section) is not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to argument (4), Examiner respectfully disagrees. See paragraphs 0007-0008, 0024, 0030, 0032, and 0052, which receives a reference point and a range of locations, wherein the set of pickup points are based on this channel width and route information and the selected pickup point is a point from this channel. The buyer provides a list of acceptable pickup locations that define a channel width from which a pickup location is selected. See paragraphs 0007-0008, 0023-0024, 0026, 0029, and 0054-0056.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 11, 30-39, 62-63, 66-67, and 70-75 are rejected under 35 U.S.C. 102(e) as being anticipated by Lyons et al. (U.S. 2002/0077937).

4. As per claim 1, Lyons et al. teaches a method for scheduling and delivery of a product to a buyer along the buyer's commuting route, comprising:

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);

selecting from a plurality of pickup points a pickup point based on the route information (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked based on the range/ranking of locations); and

dispatching a mobile pickup station to the pickup point, the mobile pickup station containing a product ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

5. As per claim 2, Lyons et al. teaches wherein selecting a pickup point further comprises:

receiving a channel width and route information from the buyer (See paragraphs 0007-0008, 0024, 0030, 0032, and 0052, which receives a reference point and a range of locations);

determining a set of pickup points from the plurality of pickup points based on the channel width and route information (See figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is determined using the range/ranking of locations);

calculating a channel area using the channel width and the route information (See paragraphs 0007-0008, 0023-0024, 0026, 0029, and 0054-0056, wherein a channel area is determined using the range/ranking of locations and a buy locally option);

determining a set of pickup points from the plurality of pickup points based on the channel area (See paragraphs 0007-0008, 0023-0026, 0029, and 0054-0056, wherein a pickup point is determined using the range/ranking of locations and a buy locally option)

selecting from the set of pickup points a pickup point (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked).

6. As per claim 3, Lyons et al. teaches wherein the plurality of pickup points is determined using an approximate buyer route concentration based on route usage (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked based on the range/ranking of locations).

7. As per claim 4, Lyons et al. teaches a method further comprising:

receiving a plurality of routes from a plurality of buyers (See figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from buyers); and

determining the plurality of pickup points based on the plurality of routes (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked in each instance based on the range/ranking of locations).

8. As per claim 5, Lyons et al. discloses a method further comprising:

receiving a specification of a plurality of preferred products (See at least paragraphs 0007-0009, 0022-0025, 0027-0029 and 0031, wherein a seller submits the specification of products wanted by the buyers);

receiving an occurrence rate for each of the plurality of preferred products (See at least paragraphs 0007-0009, 0023-0025, 0027-0029 and 0031, wherein time periods are associated with products as well as substitution rules); and

ordering the product for the buyer using the occurrence rates (See at least paragraphs 0007-0009, 0023-0025, 0027-0029 and 0031, wherein the product is order for the buyer).

9. As per claim 6, Lyons et al. disclose a method further comprising reminding the buyer via email that a product delivery is scheduled at the pickup point (See at least figure 2 and paragraphs 0007-0008 and 0052, wherein the reminder is sent to the buyer via email).

10. As per claim 7, Lyons et al. teaches a method further comprising reminding telephonically that a product delivery is scheduled pickup point (See at least figure 2 and paragraphs 0007-0008 and 0052, wherein the reminder is sent to the buyer via telephone).

11. As per claim 11, Lyons et al. teaches a method for scheduling and delivery of a product to a buyer by a seller using a third party seller affiliate, comprising:

receiving an order for a product from a buyer (See at least figure 2 and paragraphs 0007-0009, and 0023-0025 wherein an order is received);

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);

selecting from a plurality of pickup points a pickup point based on the route information (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked based on the range/ranking of locations);

selecting a third party seller affiliate from a plurality of third party sellers based on the location of the pickup point (See at least figure 2 and paragraphs 0007-0009, 0023-0025, 0027-0028, and 0052-0055, wherein a third party fulfiller is selected); and

dispatching by the third party seller affiliate a mobile pickup station to the pickup point, the mobile pickup station containing the products ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

12. As per claim 30, Lyons teaches a method for scheduling and delivery of a product to a buyer along the buyer's commuting route, comprising:

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);

receiving a channel width from the buyer (See paragraphs 0007-0008, 0024, 0030, 0032, and 0052, wherein the channel width (range) is received);

calculating a channel area using the channel width and the route information (See paragraphs 0007-0008, 0023-0024, 0026, 0029, and 0054-0056, wherein a channel area is determined using the range/ranking of locations and a buy locally option);

determining a set of pickup points from a plurality of pickup points based on the channel area (See paragraphs 0007-0008, 0023-0025, 0029, and 0054-0056, wherein a pickup point is determined using the range/ranking of locations and a buy locally option);

selecting from the set of pickup points a pickup point (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked); and

dispatching a mobile pickup station to the pickup point, the mobile pickup station containing a product ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

13. Claims 31 and 32 recite equivalent limitations to claims 3 and 4, respectively, and are therefore rejected using the same art and rationale above.

14. As per claim 33, Lyons et al. teaches a data processing system adapted to schedule and deliver a product to a buyer along the buyer's commuting route, comprising:

a processor (See figure 1 and paragraph 0015 and 0017-0020); and

a memory operably coupled to the processor and having program instructions stored therein, the processor being operable to execute the program instructions (See figure 1 and paragraph 0015 and 0017-0020), the program instructions including:

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);

selecting from a plurality of pickup points a pickup point based on the route information (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked); and

dispatching a mobile pickup station to the pickup point, the mobile pickup station containing a product ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

15. Claims 34-39 recite equivalent limitations to claims 2-7, respectively, and are therefore rejected using the same art and rationale above.

16. As per claim 42, Lyons et al. discloses a data processing system adapted to schedule and deliver a product a buyer by a seller using a third party seller affiliate, comprising:

a processor (See figure 1 and paragraph 0015 and 0017-0020); and

a memory operably coupled to the processor and having program instructions stored therein, the processor being operable to execute the program instructions (See figure 1 and paragraph 0015 and 0017-0020), the program instructions including:

receiving an order for a product from a buyer (See at least figure 2 and paragraphs 0007-0009, and 0023-0025 wherein an order is received);

receiving route information from a buyer (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein route information is received from a buyer);

selecting from a plurality of pickup points a pickup point based on the route information (See at least figure 2 and paragraphs 0007-0008, 0023-0024, and 0054-0056, wherein a pickup point is picked based on the range/ranking of locations);

selecting a third party seller affiliate from a plurality of third party sellers based on the location of the pickup point (See at least figure 2 and paragraphs 0007-0009, 0023-0025, 0027-0028, and 0052-0055, wherein a third party fulfiller is selected); and

dispatching by the third party seller affiliate a mobile pickup station to the pickup point, the mobile pickup station containing the products ordered by the buyer (See at least figure 2 and paragraphs 0007-0008, wherein the good is transported to the pickup location).

17. As per claim 62, Lyons et al. teaches wherein the route information includes a first reference point and a channel width (See at least paragraphs 0007-0008, 0024, 0030, 0032, and 0052, disclosing a phone number reference point and a range of locations).

18. As per claim 63, Lyons et al. teaches the route information further including a second reference point (See at least paragraphs 0007-0008, 0023-0025, 0029, which discloses a second reference point of pickup times or rush/urgent time frame).

19. As per claim 66, Lyons et al. teaches wherein the first reference point includes a phone number (See at least paragraphs 0007-0008, 0030, 0032, and 0052, disclosing a phone number).

20. Claims 67 and 70 recite equivalent limitations to claims 62 and 66, respectively, and are therefore rejected using the same art and rationale above.

21. As per claims 71 and 75, Lyons et al. teaches receiving a date from the buyer by the server; and delivering the product by the server according to the date (See paragraphs 0010, 0023-4, 0029, wherein the buyer submits a time frame and the product is delivered according to this timeframe).

22. As per claims 72-74, Lyons et al. teaches the buyer accessing a server via a communications network; receiving an order for a product from a buyer by the seller via the communications network; receiving a channel width from the buyer by the server via the communications network; and receiving route information from the buyer by the server via the communications network (See paragraphs 0017-9 and 0023, 0055, which disclose a

communications network and a website that is served to the computer of the buyer via the internet. See also paragraphs 0007-0008, 0023-0024, 0030-2, and 0054-0056, which disclose receiving an order, channel information, and route information).

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8, 64-65, and 68-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons et al. (U.S. 2002/0077937).

24. As per claim 8, Lyons et al. discloses wherein: the system includes a mobile pickup station and a plurality of lockers for containing products, each of the plurality of lockers having a unique access code (See paragraphs 0007-0008 and 0054-0055, disclosing a unique access code);

giving the buyer an access code for a locker containing the buyer's product, the locker selected from the plurality of lockers (See paragraphs 0007-0008 and 0054-0055, disclosing a unique access code that is used by the customer).

However, Lyons et al. does not expressly disclose that the mobile pickup station includes a plurality of lockers.

Lyons et al. discloses a buyer picking up goods placed in a locker for pickup along the rote of the buyer, wherien the locker is connected to the computer system. In Lyons, a mobile station carries a product to a location and places it in a locker. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the locker in the

mobile station of Lyons et al. in order to increase the ease of the system for all parties involved, reducing the time it takes the seller to get the item to the pickup location as well as increasing the timeliness and convenience of retrieving the item by the buyer by placing the item in a desirable pickup location with shorter delivery time and distance. See at least paragraph 0010.

25. As per claims 64 and 65, Lyons et al. discloses wherein the first reference point is location information (See at least figure 2 and paragraphs 0007-0008, 0023-0025, and 0054-0056). However, though Lyons et al. discloses choosing products and pickup locations using location information, Lyon et al. does not expressly disclose that this location information includes an address or a Zip Code (See at least figure 2 and paragraphs 0007-0008, 0023-0025, and 0054-0056).

Lyons et al. discloses choosing products and pickup locations using location information as well as a "buy locally" option that sends the product order to locations of stores near the buyer of the product. See paragraphs 0023-0026. Addresses and Zip Codes are old and well-known identifying information associated with locations and furthermore it is old and well known to receive a buyer's address information (including address and Zip Code) when a buyer places an order. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to receive this address and Zip Code information from the buyer of a product in order to increase the efficiency and speed of processing the order by receiving the information from the buyer instead of having to look up the information in the system and then process the order.

26. Claims 69 and 68 recite equivalent limitations to claims 64 and 65, respectively, and are therefore rejected using the same art and rationale above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bvd
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